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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,108	05/05/2004	Martin Weel	1116-064	9463
71739 7590 08/26/2009 WITHROW & TERRANOVA CT 100 REGENCY FOREST DRIVE , SUITE 160 CARY, NC 27518				
EXAMINER				
DAFTUAR, SAKET K				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/840,108

Applicant(s)

WEEL, MARTIN

Examiner

SAKET K. DAFTUAR

Art Unit

2451

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-18, 31, 32, 34-44 and 50-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-18, 31-32, 34-44 and 50-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/22/09.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

1. This office action is responsive to the amendment filed on May 21st, 2009. Claims 11-18, 31-32, 34-44 and 50-55 are presented for the further examination.

Response to Arguments

2. Applicant's arguments filed May 21st, 2009 have been fully considered but they are not persuasive. As per arguments filed, applicant continues to argue to the substance that:

- a. Johnson failed to disclose broadcasting a signal from the first device operative to be received by one or more second devices the signal including a request for a identifiers; receiving, at the first device, at least the identifier from the one or more second devices in response to the request; selecting, at the first device, at least one desired location identifier from the at least one location identifier received from the one or more second devices in response to the request; transmitting from the first device a password associated with one desired location identifier; and in response to transmitting the password associated with the at least one desired location identifier, receiving at the first device at least one device identifier identifying a device associated with the identifier.

In response to applicant argument a), applicant at one point is arguing that "Johnson fails to teach the claimed feature of broadcasting a signal from the first

device operative to be received by one or more second devices, the signal including a request for a list of location identifiers from the one or more second devices." (see page 10 of remarks filed on May 21st, 2009) and admitting " Thus, in light of the discussion above, Johnson does teach broadcasting a signal from a first device (e.g., a controller of the indoor embodiment of Figures 5A and 5B or a cellular network cluster controller 110, 112 of the outdoor embodiment of Figure 1) operative to be received by one or more second devices (e.g., RDPS equipped shopping carts in the indoor embodiment of Figures 5A and 5B or the RDPS equipped wireless devices in the outdoor embodiment of Figure 1)." (see page 12 of remarks filed on May 21st, 2009).

Therefore, based on the arguments presented by applicant or applicant assigned representative, it appears that claims subject matter requires further clarification in claim language. It appears that applicant arguments are mostly focused list of location identifiers from one or more (emphasis) second devices, location identifiers, desired location identifiers, one device identifier and selecting, transmitting, and broadcasting based on device location identifier. Once again, applicant arguments varies when arguing the "broadcast signal", and again, examiner notices that applicant is arguing that Johnson fails to teach "list of location identifiers" (see page 10 of remarks) and later admitted on page 12 of remarks filed on May 21st, 2009 " More specifically, in the indoor embodiment of Figures 5A and 5B of Johnson, the controller broadcasts a signal to the RDPS equipped devices (e.g., RDPS equipped shopping carts) within the

indoor environment. In response, each RDPS equipped device transmits a signal that is phase modulated with the unique device identifier of the RDPS equipped device."

Wherein the Johnson's present invention provides transmission of situational location dependent information from a server data processing system (SDPS) to a receiving data processing system (RDPS). The server data processing system (SDPS) communicates with the receiving data processing system (RDPS) by pushing content (i.e. proactive content delivery) when appropriate, rather than in response to a user query. A candidate delivery event associated with a current positional attribute of the receiving data processing system is recognized and a situational location of the remote data processing system is determined. The candidate delivery event may be a location and/or direction change, device state change, or movement exceeding a movement tolerance. The situational location of the remote data processing system may be its location, direction, location and direction, proximity to a location, state change, or location and/or direction relative to a previous location and/or direction, or combinations thereof. At the SDPS, a set of delivery content from a deliverable content database is retrieved according to the situational location of the RDPS, and according to system delivery constraints and/or configured user delivery constraints. The SDPS transmits any applicable content found to the RDPS. The delivery content is configurable by authorized administrators in a manner that enables the configured content for immediate delivery should a RDPS meet the

criteria of the associated situational location and delivery constraints. (see Summary).

Examiner considers the person skilled in the art would clearly recognize the location identifier of device based on device identifier and device location in a content delivery system in computer communication network, as claimed subject matter does not clearly states or tied to any specific location identifiers as claims failed to define location identifier as a geographic location or device location of one or more communicating devices. See figures 1-6 of Johnson clearly providing the image of device location movements. In addition, the person skilled in the art would clearly recognizes selection of devices based on any form of identifiers such as device identifier and it's location such that when device and location of device are tied together to the device identifier and device movement and direction based on device content delivery. Therefore, just by mere statement that prior art failed to teach or show each and every limitation of claimed subject matter, applicant arguments are not persuasive and to clarify examiner point of view to the claim language, examiner is providing the examiner interpretation to the claimed subject matter.

As such, Johnson discloses broadcasting a signal [see figure 5A-5B, see column 12, lines 12-41] from the first device [controller, server, administrator, communicating with wireless devices via the base stations, see column 8, lines 6-65] operative to be received by one or more second devices the signal including a request for a list (see figures 14, column 21, line 17 - column 23, line 39,

deliverable content list based on id, see administrator selected to list his deliverable content database record, then the deliverable content database is searched using the administrator's authorization id against the authorization id field) of location identifiers (see column 6, line 55 - column 7, line 41, see figures 1-6) from the one or more second devices; receiving, at the first device, at least the identifier from the one or more second devices in response to the request (see column 6, line 55 - column 7, line 41, see figures 1-6); selecting, at the first device, at least one desired location identifier from the at least one location identifier received from the one or more second devices in response to the request (see figure 5A-5B, see column 12, lines 12-41, the cell controllers selects the strongest signal and extract unique identifier from the return signal); transmitting from the first device a password [administrator's authorization ID, whereas authorization ID for example could be a password for user identifier (see column 14, line 18-32) , searched in deliverable content database records against the authorization ID field discloses that each content is transmitted to database with administrator or controller authorization ID] associated with one desired location identifier (see figure 14, column 22, line 30 – column 23, line 17); and in response to transmitting the password associated with the at least one desired location identifier(see column 14, line 18-32), receiving at the first device at least one device identifier identifying a device associated with the identifier (see figure 14, column 22, line 30 – column 23, line 17).

As claims appears to be very broad and as evidenced by applicant arguments that more clarification is required to the claim language. Based on broadest reasonable interpretation to the claim language, examiner believes the Johnson prior art clearly anticipates each and every limitation in the claims either explicitly or inherently, and therefore, the rejection is maintained.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 11-18, 31-32, 34-44 and 50-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson US Patent Number 6,456,234 B1 (hereinafter Johnson).

As per claim 11, Johnson discloses broadcasting a signal [see figure 5A-5B, see column 12, lines 12-41] from the first device [controller, server, administrator, communicating with wireless devices via the base stations, see column 8, lines 6-65] operative to be received by one or more second devices the signal including a request for a list (see figures 14, column 21, line 17 - column 23, line 39, deliverable content list based on id, see administrator selected to list his deliverable content database record, then the deliverable content database is searched using the administrator's authorization id against the authorization id

field) of location identifiers (see column 6, line 55 - column 7, line 41, see figures 1-6) from the one or more second devices; receiving, at the first device, at least the identifier from the one or more second devices in response to the request (see column 6, line 55 - column 7, line 41, see figures 1-6); selecting, at the first device, at least one desired location identifier from the at least one location identifier received from the one or more second devices in response to the request (see figure 5A-5B, see column 12, lines 12-41, the cell controllers selects the strongest signal and extract unique identifier from the return signal); transmitting from the first device a password [administrator's authorization ID, whereas authorization ID for example could be a password for user identifier (see column 14, line 18-32) , searched in deliverable content database records against the authorization ID field discloses that each content is transmitted to database with administrator or controller authorization ID] associated with one desired location identifier (see figure 14, column 22, line 30 – column 23, line 17); and in response to transmitting the password associated with the at least one desired location identifier(see column 14, line 18-32), receiving at the first device at least one device identifier identifying a device associated with the identifier (see figure 14, column 22, line 30 – column 23, line 17).

As per claim 12, Johnson discloses the location identifier comprises a name associated with one of a physical realm and a logical realm (see figures 1-10).

As per claim 13, Johnson discloses selecting, at the first device, the at least one device identifier identifying the device associated with the at least one desired location identifier, and controlling the device associated with the at least one desired location identifier (see figure 5A-5B, see column 11, line 12 - column 12, line 41, the cell controllers selects the strongest signal and extract unique identifier from the return signal).

As per claim 14, Johnson discloses the device associated with the identifier comprises one or more second device (see figure 5A-5B, see column 11, line 12 - column 12, line 41, the cell controllers selects the strongest signal and extract unique identifier from the return signal).

As per claim 15, Johnson discloses controlling the device associated with the one desired location identifier comprises causing the device associated with the desired location identifier to render at least a portion of a media item (see figure 5A-5B, see column 11, line 12 - column 12, line 41, the cell controllers selects the strongest signal and extract unique identifier from the return signal).

As per claim 16, Johnson discloses controlling the device associated with the identifier further comprises transferring a media item from the device associated with the identifier to the first device (column 6, line 55 – column 8, line 65 , see figure 5A-5B, see column 12, lines 12-41 see figure 14, column 22, line 30 – column 23, line 17, see column 13, lines 55-61).

As per claim 17, Johnson discloses the broadcasting a signal comprises broadcasting a signal from a first device operative to be received by a plurality of

second devices, wherein each of the plurality of second devices is operatively connected to a same local area network (see column 8, lines 6-65).

As per claim 18, Johnson discloses the broadcasting a signal comprises broadcasting a signal from a first device operative to be received by a plurality of second devices, wherein each of the plurality of second devices is operatively coupled to a network selected from the group consisting of a local area network, a wide area network, a remote local area network, a wireless network, a cellular phone network, and the Internet (see column 8, lines 6-65).

As per claims 31-32 and 34-39, they do not teach or further define over the limitation as recited in claims 11-18, Johnson discloses therefore, claims 31-32 and 34-39 are rejected under same scope as discussed in claims 11-18, *supra*.

As per claim 40, Johnson discloses the first device comprises at least one of a PDA [PDA], a palmtop computer, a laptop computer [laptop], and a cellular telephone (column 6, line 55 – column 8, line 65).

As per claim 41, Johnson discloses wirelessly broadcasting, on a first device, a ID (column 6, line 55 – column 8, line 65 , see figure 5A-5B, see column 12, lines 12-41); wirelessly receiving, on a second device, the ID (column 6, line 55 – column 8, line 65 , see figure 5A-5B, see column 12, lines 12-41); entering, on the second device, a password associated with the ID (column 6, line 55 – column 8, line 65 , see figure 5A-5B, see column 12, lines 12-41 see figure 14, column 22, line 30 – column 23, line 17); effecting the playing of a

media item on the first device by the second device (column 6, line 55 – column 8, line 65 , see figure 5A-5B, see column 12, lines 12-41 see figure 14, column 22, line 30 – column 23, line 17, see column 13, lines 55-61).

As per claims 42-43, they do not teach or further define over the limitation as recited in claims 17-18, Johnson discloses therefore, claims 42-43 are rejected under same scope as discussed in claims 17-18, supra.

As per claim 44, Johnson discloses the wide area network comprises the Internet (see figure 14, column 22, line 30 – column 23, line 17, see column 13, lines 55-61).

As per claims 50-55, Claims 50-55 are method claims of claims 11-18. Except for display device and server devices they do not teach or further define over the limitation as discussed in claims 11-18. Therefore claims 50-55 are rejected under same scope as discussed in claims 11-18 wherein Johnson does discloses a display device displaying, on the first device (see column 17, lines 25-50) and server devices coupled to the communication network for transmitting and receiving media content (see column 8, lines 6-65).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. Dynamic Streaming Media Management by O'Rourke et al. US Patent Number 6,990,497 B2.

b. Streaming Media Delivery on Multicast Networks for Network and Server Bandwidth Minimization and Enhanced Personalization by Weber et al. US Patent Number 7,020,710 B2.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAKET K. DAFTUAR whose telephone number is (571)272-8363. The examiner can normally be reached on 7:00 - 3:30pm M-W.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. K. D./

Examiner, Art Unit 2451

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451